

ADMINISTRATIVE REPORT

DATE: July 17, 2025
TOPIC: 5.10 – Stormwater Management Facilities Agreement
with City of Cottage Grove
PRESENTER: Kris Blackburn, Director Business Services
REFERENCE TO POLICY/STATUTE: Policy 701

A. PURPOSE OF REPORT

- a. South Washington County Schools has obtained the approval from the City of Cottage Grove to use a portion of the property purchased for the special education Transition program (PID: 10.027.21.22.0001) for a Stormwater Management Facilities.
- b. Stormwater Management Facilities may refer to water quality and/or water quantity facilities (i.e. detention basins, retention basins, swales, pipes, oil/water separators, sand filtering devices, infiltration facilities, sump structures, etc.) which are located on the properties.
- c. The City and School District desire to set forth their understanding with respect to the construction, repair and maintenance of the Stormwater Management Facilities and the responsibility relating to the costs of the repair and maintenance of the Stormwater Management Facilities.

B. RECOMMENDATION

- a. Administration recommends approval of the Stormwater Management Facilities Agreement between South Washington County Schools and the City of Cottage Grove.

C. CONNECTION TO STRATEGIC PRIORITY

- a. Operations, Staffing, and Finance
- b. Engagement and Partnerships



(Reserved for Recording Data)

STORMWATER MANAGEMENT FACILITIES AGREEMENT

This Stormwater Management Facilities Agreement (“Agreement”) is made, entered into and effective this ____ day of _____, 2025, by and between the City of Cottage Grove, a Minnesota municipal corporation (“City”), and Independent School District 833, a Minnesota public corporation (“School District”).

WHEREAS, Developer is the fee owner of certain real property situated in the City of Cottage Grove, County of Washington, State of Minnesota legally described as follows:

Outlot A, Pinetree Pond East

Abstract Property

PID: 10.027.21.22.0001

(the “Property”); and

WHEREAS, Developer has obtained the approval of the City for the development of a portion of the Property for a Stormwater Management Facilities; and

WHEREAS, as used herein, the term “Stormwater Management Facilities” may refer to water quality and/or water quality facilities (i.e. detention basins, retention basins, filtration basins, swales, structures, pipes, etc.) which are located outside the public road right-of-way; and

WHEREAS, the City has required that the Developer make provision for the construction, maintenance and repair of the Stormwater Management Facilities located within the boundaries of the Property as shown on Exhibit A attached hereto, as the same is described and depicted in those certain construction plans drawn by KOMA Inc. dated May 2, 2025 (“Plans”); and

WHEREAS, the City and Developer desire to set forth their understanding with respect to the construction, repair and maintenance of the Stormwater Management Facilities and the responsibility relating to the costs of the repair and maintenance of the Stormwater Management Facilities.

NOW THEREFORE, in consideration of the foregoing facts and circumstances, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto hereby agree as follows:

1. Construction and Maintenance of Stormwater Management Facilities. The Developer agrees to construct the Stormwater Management Facilities according to the Plans and repair at its sole cost and expense. Maintenance of the Stormwater Management Facilities shall mean (i) generally accepted propagation techniques, such as periodic mowing and spot spraying noxious weeds, and maintenance of the native vegetation around the pond to ensure establishment of healthy, functioning plant life; and (ii) an annual inspection, and certification, by a qualified individual or company acceptable to the City that the Stormwater Maintenance Facilities are functioning in accordance with the approved Plans. If, as a result of an inspection by a qualified individual or company acceptable to the City or City staff, it is determined that the Stormwater Maintenance Facilities (1) have not been maintained; or (2) are not functioning as originally designed and intended; or (3) are in need of repair, the Developer agrees to restore the Stormwater Maintenance Facilities so that it functions as it was designed and intended.

Subject to Section 5 below, Developer shall be solely responsible for the repair and maintenance of the Stormwater Maintenance Facilities and shall provide a copy of the required annual inspection report to the City. If the required annual inspection report is not submitted to the City by September 30th of each year, the Developer shall provide the City with the right to enter onto the property to conduct the annual inspection.

2. Developer's Default. In the event of default by the Developer as to any of the work to be performed by it hereunder, following at least thirty (30) days prior written notice and Developer's failure to cure such default within such time-frame, except in an emergency as determined by the City, the City may, at its option, perform the work and the Developer shall promptly, following receipt of an invoice and reasonable substantiation of such costs, reimburse the City for any reasonable out-of-pocket expense incurred by the City. This Agreement is a license for the City to act when so authorized under this Agreement, and it shall not be necessary for the City to seek a Court order for permission to enter the Property. When the City does any such work, the City may, in addition to its other remedies, assess the reasonable out-of-pocket cost in whole or in part.

3. Future City Policy. Notwithstanding anything contained in this Agreement to the contrary, in the event the City shall in the future establish a policy for repair and maintenance by the City of stormwater ponds or permanent stormwater features owned by private parties located elsewhere in the City under which policy the costs of such repair and maintenance are to be paid either out of general City revenues or by collection of utility or service fees or charges, then any owner of any portion of the Property shall be entitled to petition the City for the Stormwater Maintenance Facility under such repair and maintenance program. The recording of a certified copy of the Resolution of the City Council of the City which sets forth the consent and

authorization described in the foregoing sentence shall serve to terminate this Agreement, without further action on the part of any party hereto.

4. Changes to Site Configuration or Stormwater Management Facilities. If site configurations or Stormwater Management Facilities change, causing decreased material effectiveness of stormwater management facilities, updated Stormwater Management Facilities in same or similar condition as the original facility must be implemented to ensure the conditions for post-construction stormwater management continue to be met.

5. Terms and Conditions. This Agreement shall run with the land and shall be binding upon Developer's successors and assigns with respect to the Property. The terms and conditions of this Agreement shall be binding upon and shall insure to the benefit of the parties hereto and their respective successors and assigns.

6. Developer Warranty. Developer warrants and represents the following to the City and acknowledges that this Agreement has been duly executed and delivered and constitutes the legal, valid and binding obligation of Developer enforceable in accordance with its terms. The party signing on behalf of the Developer has been duly authorized by the entity to sign the Agreement and bind the entity. Developer has been duly formed under the laws of the State of Minnesota and is in good standing under the laws of the jurisdiction in which the Property is located, is duly qualified to transact business in the jurisdiction in which the Property is located, and has the requisite power and authority to enter into and perform this Agreement and the documents and instruments required to be executed and delivered by Developer pursuant hereto. This Agreement and the documents and instruments required to be executed and delivered by Developer pursuant hereto have each been duly authorized by all necessary action on the part of Developer and such execution, delivery and performance does and will not conflict with or result in a violation of Developer's organizational agreement or any judgment or order. The execution, delivery and performance by Developer of this Agreement will not (a) violate any provision of any law, statute, rule or regulation or any order, writ, judgment, injunction, decree, determination or award of any court, governmental agency or arbitrator presently in effect having applicability to Developer, or (b) result in a breach of or constitute a default under any indenture, loan or credit agreement or any other agreement, lease or instrument to which Developer is a party or by which it or any of its properties may be bound.

7. Amendment and Waiver. The parties hereto may by mutual written agreement amend this Agreement in any respect. Any party hereto may extend the time for the performance of any of the obligations of another, waive any inaccuracies in representations by another contained in this Agreement or in any document delivered pursuant hereto which inaccuracies would otherwise constitute a breach of this Agreement, waive compliance by another with any of the covenants contained in this Agreement, waive performance of any obligations by the other or waive the fulfillment of any condition that is precedent to the performance by the party so waiving of any of its obligations under this Agreement. Any agreement on the part of any party for any such amendment, extension or waiver must be in writing. No waiver of any of the provisions of this Agreement shall be deemed, or shall constitute, a waiver of any other provisions, whether or not similar, nor shall any waiver constitute a continuing waiver.

8. Governing Law. This Agreement shall be governed by and construed in accordance

with the laws of the State of Minnesota.

9. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument.

10. Consent. Developer consents to the recording of this Agreement.

11. Limitation of Liability. Notwithstanding any other provision of this Agreement, in no event shall either party or any of their affiliates, by reason of any of their respective acts or omissions be liable whether in contract, tort, misrepresentation, warranty, negligence, strict liability or otherwise for any special, indirect, incidental or consequential damages arising out of or in connection with this Agreement, or the performance, non-performance or breach thereof.

12. Notice. Notice shall mean notices given by one party to the other if in writing and if and when delivered or tendered: (i) in person; (ii) by depositing it in the United States mail in a sealed envelope, by certified mail, return receipt requested, with postage and postal charges prepaid, or (iii) by proper and timely delivery to an overnight courier service.

If to City:

City of Cottage Grove
Attention: City Administrator
12800 Ravine Parkway South
Cottage Grove, MN 55016

If to Developer:

Independent School District 833
Attention: Superintendent
7362 E. Point Douglas Road South
Cottage Grove, MN 55016

or to such other address as the party addressed shall have previously designated by notice given in accordance with this Section. Notices shall be deemed to have been duly given on the date of service if served personally on the party to whom notice is to be given, on the third day after mailing if mailed by United States postal service as provided above, or within twenty-four (24) hours if sent via overnight courier service provided, that a notice not given as above shall, if it is in writing, be deemed given if and when actually received by a party.

[The remainder of this page was intentionally left blank.]

IN WITNESS WHEREOF, the parties hereto have caused this document to be executed as of the day and year first above written.

CITY:
CITY OF COTTAGE GROVE

By: _____
Myron Bailey
Its: Mayor

By: _____
Tamara Anderson
Its: City Clerk

STATE OF MINNESOTA)
)
COUNTY OF WASHINGTON) ss.

On this _____ day of _____, 2025, before me a Notary Public within and for said County, personally appeared Myron Bailey and Tamara Anderson to me personally known, who being each by me duly sworn, each did say that they are respectively the Mayor and City Clerk of the City of Cottage Grove, the municipality named in the foregoing instrument, and that the said instrument was signed on behalf of said municipality by authority of its City Council and said Mayor and City Clerk acknowledged said instrument to be the free act and deed of said municipality.

Notary Public

**LANDOWNER:
INDEPENDENT SCHOOL DISTRICT NO. 833**

By: _____

Name: _____

Its: _____

STATE OF MINNESOTA)
)
COUNTY OF WASHINGTON) ss.

On this ____ day of _____, 2025, before me a Notary Public within and for said County, personally appeared _____ to me personally known, who being by me duly sworn, did say that he/she is the _____, the _____ of Independent School District No. 833, a Minnesota public corporation, the entity named in the foregoing instrument, and that said instrument was signed on behalf of said public corporation.

Notary Public

**This instrument drafted by
And after recording, please return to:**
Korine Land, #262432
LeVander, Gillen, & Miller, P.A.
1305 Corporate Center Dr., Suite 300
Eagan, MN 55121
(651) 451-1831

EXHIBIT A STORMWATER MAINTENANCE FACILITIES PLANS



